

SOMERSET COUNTY COMMISSIONERS



300 North Center Avenue, Suite 500 • Somerset, PA 15501
(814) 445-1400 • (814) 445-7991 Fax
www.co.somerset.pa.us

Gerald Walker, Chairman
John P. Terlingo, Vice Chairman
Pamela Tokar-Ickes, Secretary

December 5, 2019

Via Electronic Mailing Only

Adrien Salzberg
MuckRock News
DEPT MR 81997
411A Highland Avenue
Somerville, Massachusetts 02144-2516
81997-75826003@requests.muckrock.com

Re: *October 22, 2019 Right-to-Know Law Request*

Dear Adrien:

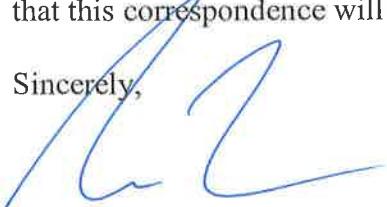
As you may recall, I serve as Solicitor for the County of Somerset, Pennsylvania (the “County”) and in said capacity, I am acting for the designated County Open-Records Officer relative to your correspondence dated October 22, 2019 directed to the “Somerset County Election Board” which I am hereby treating as a written request under Pennsylvania’s Right-to-Know Law (sometimes hereinafter “RTKL” or simply the “Law”). As you also know, you received prior correspondence from me by which the County asserted its right to an additional thirty (30)-day extension to process and evaluate your request for the reasons set forth in my letter dated November 5, 2019.

Please be advised that your request is hereby denied. More specifically, your request seeks disclosure of “[a]ny and all records from January 1, 2019, to the date this request is processed, concerning election complaints forwarded to the county from the Pennsylvania Department of State.” Under the Election Code, the County Board of Elections is tasked with, *inter alia*, the duty “[t]o investigate election frauds, irregularities and violations of this act, and to report all suspicious circumstances to the district attorney.” 25 P.S. § 2642(i); *see also e.g.* 25 P.S. § 3046.2 (relating to the processing of Title III complaints). In this vein, the applicable provisions of the Right-to-Know Law exempt from disclosure “record[s] of an agency relating to or resulting in a criminal investigation...,” *see* 65 P.S. § 67.708(16), and also “record[s] of an agency relating to a noncriminal investigation...” 65 P.S. § 67.708(b)(17). The latter category

of exempt records expressly includes, but is not limited to, “[c]omplaints submitted to an agency” and “[i]nvestigative materials, notes, correspondence and reports.” *See id.* Because the foregoing provisions of the Law clearly and unambiguously exempt from public disclosure the very records that you seek, your request is hereby denied.

You have a right to appeal this determination in writing to the Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. If you choose to file an appeal, you must do so within fifteen (15) business days of the mailing date of this response. *See 65 P.S. § 67.1101.* Please note that a copy of your original Right-to-Know Law request and this correspondence must be included when filing an appeal. If you feel that a public record has been wrongfully withheld, the law also requires that you state the reasons why the record is a public record and address each of the reasons that you perceive that this agency has denied your request. Visit the Office of Open Records website at <http://www.openrecords.pa.gov> for further information on filing an appeal. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Sincerely,



Michael P. Barbera, Esq.

MPB:lls

cc: Sonya K. Augustine
Chief Clerk
County of Somerset
300 North Center Avenue, Suite 500
Somerset, Pennsylvania 15501
(814) 445-1400